

JONES DAY

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May 13, 2016

VIA ECF

Hon. District Judge Vince Chhabria
San Francisco Courthouse, Courtroom 4 - 17th Floor
450 Golden Gate Avenue
San Francisco, California 94102

Re: *California Berry Cultivars, LLC v. The Regents of the University of California*, Case No. 3:16-cv-02477-VC (N.D. Cal.) Supplemental Submission

Dear Judge Chhabria:

On May 12, 2016, this Court indicated that the parties may file certain supplemental submissions by 9:00 a.m. May 13, 2016. California Berry Cultivars, LLC (“CBC”) attaches five communications (Exhibits 1-5) in which CBC reminded the University that time was of the essence to plant material for the first planting deadline of April (for high elevation planting). That deadline to plant materials at high elevation has passed; and the deadline to plant materials at low elevation is the end of May 2016. For the Court’s convenience, CBC has highlighted relevant portions of Exhibits 1-5. CBC also attaches a copy of the previously filed Supplemental Declaration of Douglas V. Shaw in Support of the Application for a TRO and OSC (Exhibit 6), as this declaration explains relevant information regarding the timeline of activities regarding the frozen plant material.

Respectfully submitted,

/s/ Rick L. McKnight

Attachments:

Exhibit 1 – February 12, 2016 letter from Patrick A. Nielson (counsel for CBC) to Jacob Appelsmith (Chief Campus Counsel for the University’s Davis campus) regarding “Jacob Appelsmith Letter of January 26, 2016 to Dr. Douglas V. Shaw, Professor Emeritus of UC Davis”

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Exhibit 2 – March 3, 2016 Letter from Patrick A. Nielson (counsel for CBC) to Jacob Appelsmith (Chief Campus Counsel for the University's Davis campus) regarding negotiation of a license agreement and reminding the University that "time is of the essence"

Exhibit 3 – Attachment to the March 6, 2016 letter from A.G. Kawamura (President of CBC) to the University President Janet Napolitano regarding the University breeding program, the inventors' rights in their inventions, and the negotiation of a resolution of the dispute before the planting deadline

Exhibit 4 – March 11, 2016 Letter from Rick McKnight (counsel for CBC) to Jacob Appelsmith (Chief Campus Counsel for the University's Davis campus) regarding the negotiation of a license

Exhibit 5 – March 18, 2016 Letter from Patrick A. Nielson (counsel for CBC) to Jacob Appelsmith (Chief Campus Counsel for the University's Davis campus) regarding the University's continued delays and the looming planting deadline

Exhibit 6 – Previously Filed Supplemental Declaration of Douglas V. Shaw in Support of Plaintiff's Application for a TRO and OSC (previously filed at ECF No. 19-4, pp. 54-70)